

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.349 OF 2005
IN
SUMMARY SUIT NO.1114 OF 2005

M/s.Motilal Kaliandas & Co. ..Plaintiffs.
Vs.
M/s.Jagdish Industries ..Defendants.

Mr.R.L.Dharia for the Plaintiffs.
Mr.S.B.Amin for the Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 5TH DECEMBER, 2005

P.C. :

The suit is filed to recover the price of goods sold and delivered by the Plaintiffs to the Defendants. Admittedly, the goods were sold and delivered on the terms and conditions contained in the suit invoices. Admittedly, the goods were received and the Defendants had signed the delivery challans.

2. The only defence is that the goods were defective and that the Defendants therefore rejected the same. This defence has been taken for the first time in the affidavit in reply. It is not possible to accept this defence. There is not a single document evidencing the return of the goods. Nor is there any document by which the Defendants raised

any objection as to the quality of goods.

3. There is no reply to the Plaintiff's Advocate's notice dated 10.2.2005 demanding payment. In the circumstances, there is no defence to the suit.

4. Summons for Judgment is therefore made absolute and the suit is decreed as prayed.

Refund as per rules.